

Notice of Allowability

Application No.

10/773,344

Examiner

Binta M. Robinson

Applicant(s)

OHTA ET AL.

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's remarks dated 6/26/07.
2. ☒ The allowed claim(s) is/are 60-74, 79-93 (now renumbered as claims 1-30).
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/481,629.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 9/13/07
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


JANET L. ANDRES
SUPERVISORY PATENT EXAMINER

Examiner's Amendment

The composition and process of preparing claims 61-66 and 80-85 will be rejoined because they are not patentably distinct from the product claims and are of the same scope and are allowable along with the product claims. Claims 67-78, 86-97 are also rejoined with the product claims for examination under *In re Ochiai* since the product claims have been found allowable and these method of treating claims are of the same scope.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney David Stitzel on 9/13/07.

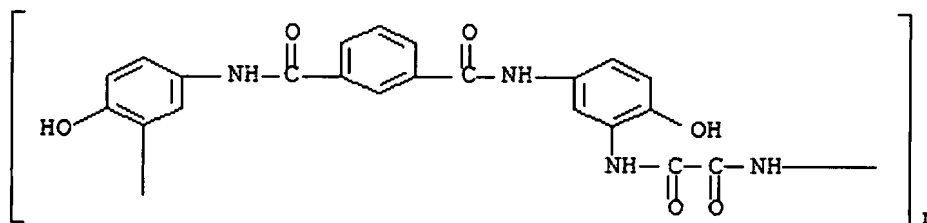
- A. In claim 67, line 2, page 8, the term "therapeutically" is deleted.**
- B. In claim 68, line 2, page 8, the term "therapeutically" is deleted.**
- C. In claim 69, line 2, page 9, the term "therapeutically" is deleted.**
- D. In claim 71, line 2, page 9, the term "therapeutically" is deleted.**
- E. In claim 72, line 2, page 9, the term "therapeutically" is deleted.**
- F. In claim 73, line 2, page 9, the term "therapeutically" is deleted.**
- G. Claims 75-78 and 94-97 are cancelled without prejudice to the applicant filing a divisional application on these claims.**

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- H. In claim 86, line 2, page 16, the term "therapeutically" is deleted.
- I. In claim 87, line 2, page 16, the term "therapeutically" is deleted.
- J. In claim 88, line 2, page 16, the term "therapeutically" is deleted.
- K. In claim 90, line 2, page 17, the term "therapeutically" is deleted.
- L. In claim 91, line 2, page 17, the term "therapeutically" is deleted.
- M. In claim 92, line 2, page 17, the term "therapeutically" is deleted.

Reasons For Allowance

The closest prior art reference is Hcaplus 68:22392. (See Reference U). The primary difference between the Hcaplus 68:22392 compound and the instantly claimed compound are the saturation on the 6 membered carbocyclic ring and the substitution on this ring. In the instant compound, the six membered carbocyclic ring is a cyclohexyl ring with 3 amidinyl substituents on it. In the Hcaplus 68:22392 compound, the six membered carbocyclic ring is phenyl with only 2 amidinyl substituents on it. See the



1 REFERENCES IN FILE CA (1907 TO DATE)

1 REFERENCES IN FILE CAPLUS (1907 TO DATE)

compound,

Another primary difference is that the Hcaplus 68:22392 compound is a polymer whereas the instant compound is not.

The prior art reference does not teach nor suggest to one of ordinary skill

in the art how to modify the prior art compound to derive the instant compound.

Therefore, the instant claims are allowable therefrom.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binta M. Robinson whose telephone number is (571)272-0692. The examiner can normally be reached on M-F (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Janet Andres can be reached on (571)272-0867. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7922 for regular communications and (703)308-7922 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0193.



September 14, 2007